



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.3970 of 2011

and

M.P. (MD)No. 1 of 2011

M/s Aruna Steel Rolling Mills,
Ulageneri, Othakadai,
Madurai,
through its Partner SV.Pethaperumal.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road, Madurai.

2.M.Ramamoorthy

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records of the first respondent in I.D.No.141 of 1999 and quash the award, dated 12.01.2009, passed in I.D.No.141 of 1999.

For Petitioner	:	Mr.T.Ravichandran
For Respondents	:	R.Subramanian
		for R.2
	:	R.1-Labour Court

ORDER

This Writ Petition is filed seeking for issuance of a Writ of Certiorari to call for the records of the first respondent in I.D.No.141 of 1999 and quash the award, dated 12.01.2009, passed in I.D.No.141 of 1999.

2. The case of the petitioner is that the petitioner was running a factory in the name and style of "Aruna Steel Rolling Mills", which was closed on 05.02.2001, after complying with all formalities. The second respondent is a workman of the petitioner factory and he indulged in the business of lending money to the co-



workers in the petitioner factory. When the co-workers, who borrowed money from him, were not able to pay interest correctly, the second respondent threatened the co-workers and the co-workers filed complaints before the petitioner management and thereby, the petitioner management issued a charge memo, dated 18.03.1999. The second respondent submitted his explanation on 20.03.1999. Thereafter, an enquiry was conducted strictly adherence to the principles of natural justice. After participation of the second respondent, the Enquiry Officer had drawn a proven minute against the second respondent. Based on the proven minute, a second show cause notice was issued on 05.07.1999, enclosing a copy of the enquiry report and called for further explanation. After the receipt of the explanation from the second respondent, the second respondent was dismissed from service on 08.07.1999.

3. Aggrieved by the said order of dismissal, the second respondent raised an industrial dispute before the first respondent and the same was taken on file as I.D.No.141 of 1999. However, the Labour Court passed an award dated 12.01.2009, by setting aside the order of dismissal passed by the petitioner management. Against which, the present writ petition has been filed by the petitioner management.

4. Learned Counsel appearing for the petitioner would submit that though the transaction in between the second respondent and the said Raja, who was examined as P.W.1 on the side of petitioner management is not affected the management of the mill, however, this transaction was created a panic situation in between the employees and the second respondent and the second respondent threatened the co-workers and in order to smooth functioning of the mill, the petitioner management was forced to take disciplinary action against the second respondent and the same is ended in dismissal, which cannot be interfered with. Further the management examined the affected person as P.W.1 and the management of the Mill was examined as P.W.2 and their witnesses clearly established the guilt committed by the second respondent. Hence, the order of the Labour Court is liable to be set aside. Accordingly, he prays for allowing of the writ petition.

5. Per contra, learned Counsel appearing for the second respondent would submit that the second respondent is an union activist and he questioned the misappropriate administration of the Mill and not maintaining the duty card and registers and forced the workers to work from evening 06.00 p.m. to morning 06.00p.m., for which he raised a conciliation proceedings before the Deputy Commissioner of Labour in the year 1999. The Deputy Commissioner of Labour also issued appropriate instructions to the petitioner management to follow the procedure. In order to take vengeance, the petitioner management set up P.W.1 and obtained a complaint from him and thereafter, initiated the disciplinary proceedings, which ended



evidences, has rightly set aside the order of dismissal. Hence, he prays for dismissal of the writ petition.

6. Heard the learned Counsel for the petitioner and the learned Counsel appearing for the second respondent and perused the materials placed on record.

7. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court in a catena of decisions has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award. First, it has to be seen, whether the Employer Management was able to exactly establish as to guilt committed by Employee and whether there was evidence to show that the Employee concerned is solely responsible for the guilt and the same is affected the reputation of the Employer Management.

8. The fact in the present case is that the second respondent is a workman in the petitioner mill and he was issued with a charge memo on the allegation that he was lending money to P.W.1, for which, P.W.1 made a complaint before the petitioner mill. The petitioner mill, thereafter, conducted the enquiry and based on the proven minute submitted by the Enquiry Officer, the dismissal order was passed by the petitioner mill.

9. This Court perused the evidence of P.W.1. On a perusal of the evidence of P.W.1, he deposed that he borrowed money from the second respondent and the same was not repaid to him. However, in the evidence, he deposed that he borrowed money one from Bose and not from the second respondent. In view of the contradictory deposition before the Labour Court by P.W.1, it would reveal that P.W.1 has not borrowed money from the second respondent. Further this Court is unable to understand, as to how the private contract in between the P.W.1 and the second respondent is affected the functioning of the mill. However, all those issues were elaborately considered by the Labour Court and the Labour Court has correctly come to the conclusion and set aside the order of dismissal, which does not warrant any interference by this Court.



10. For the reasons aforesaid, this writ petition is devoid of merit and, accordingly, the same is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road, Madurai.

+1 CC to M/s.T.RAVI CHANDRAN, Advocate (SR-588[F] dated 08/01/2021)

W.P (MD) No.3970 of 2011
07.01.2021

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KB(20.01.2021) 4P 3C